

**TO: Chairman and Members**

**DATE: September 8, 2011**

**SUBJECT: AB 900 Phase II Jail Construction Financing  
Executive Steering Committee Recommendations**

**AGENDA ITEM: G**

**ACTION: X  
INFORMATION:**

**RESOURCE PERSON: Leslie Heller**

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**Summary:**

This agenda item provides an update to the Corrections Standards Authority (CSA) Board on the progress of the Assembly Bill (AB) 900 Phase II jail construction financing process, and requests the Board's action related to the Executive Steering Committee (ESC) recommendations from its August 1, 2011 meeting.

**Background:**

AB 900 (signed into law May 3, 2007) provided for two phases of jail construction financing, and 11 counties currently hold a Phase I jail construction financing conditional award from the CSA Board. AB 111 (signed into law April 4, 2011) and AB 94 (signed into law May 9, 2011), cited as part of the 2011 Realignment Legislation Addressing Public Safety, amend provisions for and authorize the second phase of jail construction financing in the amount of \$602,881,000. Phases I and II together total \$1.2 billion.

At its July 14, 2011 meeting the Board approved moving forward with the Phase II funding process, approved the composition of the ESC, and further approved convening the ESC for purposes of developing the key components of the application process, including the timeline.

On August 1, 2011 the ESC met in Sacramento, and eight of the nine members were in attendance. The committee elected Kern County Sheriff Donny Youngblood as the Chair. The committee discussed a number of topics, all of which shape the framework for the process moving forward, and to result in a Request for Applications (RFA) process that is believed to adequately balance the preferences stated in legislation and the need to recognize small, medium and large counties. The two preferences cited in AB 111 and AB 94 are that the California Department of Corrections and Rehabilitation (CDCR) and CSA shall give funding preference to counties that:

- Committed the largest percentage of inmates to state custody in relation to the total inmate population of CDCR in 2010.
- Relinquish their Phase I conditional awards, provided that those counties agree to continue to assist the state in siting reentry facilities. (AB 94 lowered the matching funds contribution from the previous 25 percent to 10 percent. This preference allows that Phase I counties, that have not yet entered into contracts encumbering state funds, may relinquish their Phase I award and reapply in Phase II, assuming the lower match requirement.)

Further consideration for the committee was the Governor's signing message for AB 94 which states, in part, that the CSA "...will structure the competitive process for projects in a way that fairly

balances the preferences specified in the bill and existing law and allows small, medium and large counties to compete for project financing.”

Attached for the Board’s review and action are the minutes of the August 1, 2011 ESC meeting (Attachment A). The Board is being asked at this time to accept the committee’s direction and recommendations contained in the minutes, including the manner in which the funding preferences would be handled, with two important caveats. First, as indicated in the header of the minutes, other State stakeholders must approve of this direction as well, so that the process and subsequent projects are deemed legal and compatible with the lease-revenue bond financing. These stakeholders will be reviewing a draft of the RFA before it is brought to the CSA Board for approval. Secondly, as a deviation from the committee’s decision, and as indicated in the minutes in colored font on pages two and three under Scope of Work, counties will be required to add beds with each of their projects, following the legislative intent of AB 900. Highlights of some of the committee’s decisions and recommendations to the Board are:

- The admissions to CDCR preference shall be handled as a “hard” preference, meaning that the CDCR admissions data will be followed to determine a rank-order of counties for funding, subsequent to counties’ application submittals and determination of project worthiness by the ESC, with concurrence from the CSA Board.
- The above preference will be shared with small, medium and large counties by way of funding set-asides -- \$300 million for large counties, \$200 million for medium counties and \$102,881,000 for small counties. (See Attachment B for the admissions criteria established within each county size set-aside.)
- The Phase I relinquishing counties preference will also be handled as a “hard” preference, separate from the counties with admissions preference. For those eligible Phase I counties that choose to relinquish their Phase I award for a Phase II award, the Phase II award will formally occur following the requisite legislative action that moves the Phase I award amount to Phase II authority.

The committee agreed to a project timeline (updated since the timeline that is reflected in the minutes) that will expeditiously move the RFA process, resulting in the RFA being brought to the Board in early October 2011 for approval prior to its release to the field; applications from counties due within three months (January 2012); and award recommendations brought to the Board in March 2012. (Staff will be asking the Board to convene in a special session in early October 2011, if possible, to take action on the final RFA.)

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### **Recommendation/Action Needed:**

Staff recommends the CSA Board accept the recommendations of the AB 900 Phase II Executive Steering Committee to date, as reflected in the August 1, 2011 meeting minutes, with the exception of the need for each project to include added beds and with recognition that State stakeholders will need to concur with the elements of the funding process.